

SENATE BILL 2676
By Finney

AN ACT to amend Tennessee Code Annotated, Title 68,
Chapter 11, Part 2, relative to health care.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 68, Chapter 11, Part 2, is amended by
adding the following language as new, appropriately designated sections:

§ 68-11-263.

- (1) "Home care organization" has the meaning set forth in § 68-11-201.
- (2) "Hospital" has the meaning set forth in § 68-11-201.
- (3)

(A) "Solicit," as used in this section and §§ 68-11-264 -- 68-11-265, means knowingly contacting a prospective patient who has not initiated contact with the home care organization or hospital for the purpose of attempting to persuade the prospective patient to accept treatment from the home care organization or hospital.

(B) "Solicit," as used in this section and §§ 68-11-264 -- 68-11-265, does not include a home care organization's or hospital's communications to the general public, or any advertising of services through means of direct mail. The prohibition on solicitation set forth in this part shall in no way prevent a physician from making a recommendation to a patient that the patient use a particular home care organization's or hospital's services based upon the physician's independent judgment.

§ 68-11-264.

For a thirty (30) day period following the date of an accident reported pursuant to Title 55, Chapter 10, Part 1, a home care organization or hospital, through its officers, directors, employees or agents, shall not knowingly solicit a prospective patient whose name appears in an accident report and who has not initiated the contact with the home care organization or hospital.

§ 68-11-265.

A home care organization or hospital found in violation of § 68-11-264 shall be subject to an injunction, by either a circuit or chancery court of competent jurisdiction, prohibiting further solicitation. An action seeking injunctive relief may be initiated by any person solicited within thirty (30) days of the person's name appearing in an accident report. The prevailing party may, in the court's discretion, be awarded attorney fees. The right to injunctive relief shall not prevent an offended person from seeking monetary damages or any other relief against the offending organization to which it may be entitled at law or in equity.

SECTION 2. This act shall take effect July 1, 2006, the public welfare requiring it.